

Reasonable Accommodation and RA Procedures

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Background

- Americans with Disabilities Act
- Rehabilitation Act
- Executive Order 13163
- Executive Order 13164

“The unemployment rate of individuals with significant disabilities is among the highest of disadvantaged groups in the Nation.”

RA - Where It Applies

Applies to all areas of employment,
including but not limited to

- Recruitment
- Training
- Promotion
- Reassignment
- Developmental assignments.

Reasonable Accommodation

Any change or adjustment to a job or work environment that permits a qualified employee, or applicant for employment, with a disability

- To participate in the job application process,
- To perform the essential functions of a job, or
- To enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

Is the Employee/Applicant Disabled?

To be regarded as disabled, an individual must have:

- a. A physical or mental impairment that substantially limits one or more major life activities,
- b. A record of such a physical or mental impairment, or
- c. A history of being regarded as having such an impairment, whether or not they have the impairment.

Is the Employee Qualified?

To be regarded as qualified an individual must

- a. have the requisite skill, experience, education, and other job-related requirements of the position; and
- b. be able perform the *essential functions* of the position, with or without reasonable accommodation.

Types of Reasonable Accommodation

A reasonable accommodation may consist of one or more of the following:

- Reasonable modifications to an agency's rules, policies, or practices;
- Removal of architectural, communication, or transportation barriers; or
- Provision of auxiliary aids and services.

TERMINOLOGY

- Assistive Technology
- Electronic & Information Technology
- Essential Functions
- Extenuating Circumstances
- RAC
- Reassignment
- Targeted Disability
- Undue Hardship
- Vacant Position



RA - Who Can Make A Request?

- The individual with a disability – be they employee or applicant
AND SOMETIMES
- A family member of the person with a disability or a union representative of the person with a disability
 - But coordinate with the employee first if you can!

INITIATING THE REQUEST PROCESS

- No set time frame
- Can be verbal or written
- Preferred method – first line supervisor
- Can request via Personnel or EEO office
 - Provide notice to the RAC
 - Confidential

THE RA REQUEST MUST INCLUDE

- Basic medical info about the impairment
- The accommodation being requested

WORKING THE REQUEST

- Management responsible for immediate action
- Process should always be interactive
- Acceptance or denial should be decided in a matter of days
- Implementation time depends on the type of accommodation
- For recurring needs (interpreters), a new request need not be filed every time – just verbally remind of need.

SPECIAL TIMELINESS ISSUES

A request should always be expedited

- When the accommodation is needed so the individual can apply for a job
- When the accommodation is needed for a specific command activity that is scheduled to occur shortly

TYPES OF ACCOMMODATIONS

- Restructuring jobs
- Adjusting work schedules
- Flexible leave
- Modifying worksites
- Specialized equipment & assistive devices
- Readers
- Sign language interpreters
- Personal care assistants

RA Points of Contact / Resources

RETIREES/VISITORS

(in addition to what's on this chart)
Community Activities Business Center

CIVILIAN PERSONNEL

Applicants

POC on the
announcement

Reassignments

Local Personnel Officials
Manpower & RM for your
organization

IWDPM & RAC

Personnel or EEO
Office

REVIEW OF MEDICAL DOCUMENTATION

Occupational Health or Other 3rd Party
Medical Professional

PHYSICAL SAFETY

Installation Safety Office

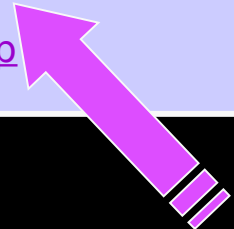
TECHNOLOGY ACCESSIBILITY

Information Technology Business Center
Computer/Electronic Accommodation Program
(CAP)
www.tricare.osd.mil/cap

PHYSICAL ACCESSIBILITY

Public Works Business Center

- Provost Marshal
- Commander/Director of
Organization
- Facility Manager



CAP CAN PROVIDE:

- Assistive technology accommodations and services at no cost
- Training in the technology
- Interpreters, readers, personal assistants (ex.: long-term training)
- Needs assessment assistance

MEDICAL DOCUMENTATION

- Only if disability & need for accommodation is not obvious
- Cannot request medical history, only the here and now.
- MUST be kept confidential
- Can NOT be kept with the individual's personnel file

**GUIDANCE FROM THE EEOC at
www.eeoc.gov**

***Disability Related Inquiries & Medical
Examinations of Employees Under the
ADA***

REVIEW OF MEDICAL DOCUMENTATION

- Medical document(s) requested will be reviewed by Occupational Health Svcs
- Documentation requested by CAP is to be sent to CAP for their review process
- Documentation must come from an appropriate professional
- Refusal to provide properly requested documentation can result in denial of accommodation request.

REASSIGNMENT AS ACCOMMODATION

- The accommodation of LAST resort!
- ***Must be considered if employee can no longer perform essential functions of their job with or without accommodation***
- Rigorous process
- *MAY* end in separation/disability retirement, etc.

REASSIGNMENT PROCESS

1. Position must be vacant
2. Look within the organization
3. If nothing available/coming available the search moves to next level
4. Next level will search all organizations
5. If something is found, engage in negotiation with the manager
6. If nothing found, can search Agency wide – will still require negotiation

CAVEATS ABOUT REASSIGNMENT

THERE ARE NO GUARANTEES!

*IMPORTANT THINGS THE IWD MUST DO FOR THEIR
SELF*

- *Always have an IDP!*
- *Be fluent in application process & keep it updated*

And what happens if no position can be found?

Separation / Disability Retirement

The IWD MUST engage in seeking another

OTHER CONSIDERATIONS IN RA

A. Unions

When must management negotiate a RA?

- Will the RA affect the terms/conditions of employment?
 - Know the CBA!
- CBA terms *MAY* bear on undue hardship but those terms are NOT determinative.
- Union & Mgt are expected to work together in best interest of employee needing RA
 - Union as employer & bargaining agent

OTHER CONSIDERATIONS IN RA

B. Contract Employees

- What does the contract say?
If nothing, contractor is responsible.
- What is the Agency responsible for?
Access - building through workstation.

RA REQUEST DENIALS

All denials of reasonable accommodation must –

1. Be in writing
2. Include clearly stated reasons for denial
3. Include any other RA options pursued that the employee turned down
4. Inform employee right to file union grievance or EEO complaint (45 days)
5. Inform employee of ADR option
6. Copy furnished to RAC!

DATA COLLECTION

- EEOC requires annual reporting on RA
- Data collected for this purpose consists of the following
 - The command/office/directorate in which the request was made and the job type
 - Type of disability
 - Type of accommodation requested
 - Acceptance or denial
 - Timeframe of implementation
 - Specific reasons for denial

EXAMPLES OF POSSIBLE ACCOMMODATIO N REQUESTS

Test Your Knowledge!

Example A:

An employee tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of medical treatments I'm undergoing."

Example B:

An employee tells his supervisor, "I need six weeks off to get treatment for a back problem."

Example C:

A new employee, who uses a wheelchair, informs the employer that her wheelchair cannot fit under the desk in her office.

Example D:

An employee tells his supervisor that he would like a new chair because his present one is uncomfortable.



Example E:

An employee's spouse phones the employee's supervisor on Monday morning to inform her that the employee had a medical emergency due to multiple sclerosis, needed to be hospitalized, and thus requires time off.

Example F:

An employee has been out of work for six months with a workers' compensation injury. The employee's doctor sends the employer a letter, stating that the employee is released to return to work, but with certain work restrictions.

NEED HELP?

Individuals with Disabilities Program Manager
(IWDPM)

and

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job.htm](http://www.dol.gov/odep/pubs/misc/job.htm)**

QUESTIONS?